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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,440	10/09/2001	Rajan Keshav Panandiker	8296	5975

27752 7590 08/13/2003

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EXAMINER

PIERCE, JEREMY R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/973,440

Applicant(s)

PANANDIKER ET AL.

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the article "has a sufficient stiffness to prevent it from folding on itself during use." This is indefinite because it is unclear what degree of stiffness would constitute "sufficient stiffness." Additionally, the meaning of "during use" is unclear because the article may be used in more than one application.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-8, and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cambre (U.S. Patent No. 4,199,464).

Cambre discloses a laundry substrate article that provides various benefits including dye transfer inhibition (column 1, lines 56-57). The detergent composition

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inhibits the transfer of certain dyes in the washing solution (column 12, lines 40-43).

The article can be multi-layer paper structures (column 5, lines 50-52). With regard to claims 3 and 4, the multi-ply paper may be embossed (column 5, line 52), which would create pressure bonds. With regard to claims 5, 6, and 8, Cambre discloses a two-layer embodiment where the first and second layers weigh 77.5 gsm (column 18, lines 20-22). With regard to claim 7, Cambre discloses that the substrate can be made according to U.S. Patent No. 3,414,459 to Wells (column 4, line 45). Wells discloses the basis weights of the plies to be between 7 to 30 pounds per 3000 square feet, which equals about 11 to 49 gsm. With regard to claims 14-17, the cloths may be air-laid (column 4, lines 65-68). With regard to claim 18, Cambre discloses the substrate to have a melting point higher than at least 300 degrees Fahrenheit so that it does not melt in a drying machine (column 4, lines 20-24).

### ***Claim Rejections - 35 USC § 102/103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 10, 11, and 18-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cambre.

Although Cambre does not explicitly teach the limitations of stiffness and water permeability, it is reasonable to presume that said limitations are inherent to the

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invention. Support for said presumption is found in the use of similar materials (i.e. multi-layer substrate) and in the similar production steps (i.e. air-laying the two layers with similar basis weights) used to produce the laundry substrate. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. Further support for inherency is present because the Cambre reference incorporates by reference similar patents that the Applicant incorporates into the present invention. Applicant states, "A specific example of a type of paper article material preferred herein is a two-ply paper having a basis weight of about 50 pounds per 2,880 sq. ft. made from, for example, a mixture of ground wood and kraft bleached wood pulps. Another example is the absorbent, multi-ply toweling paper which is disclosed in U.S. Pat. No. 3,414,459, Wells, issued Dec. 3, 1968" (page 10, lines 26-30). The Cambre reference has the exact same paragraph describing a preferred substrate for that invention (column 4, lines 38-46). In the alternative, the claimed stiffness would obviously have been provided by the process disclosed by Cambre because Cambre specifically states that fiber density and thickness can be adjusted so long as the article is able to maintain its structural integrity during a wash (column 4, lines 14-19). Increasing the stiffness would be optimization of a result effective variable, with those variables being fiber density and thickness. It would have been obvious to one having ordinary skill in the art to create an article with a Taber stiffness rating of from 7 TSU to 200 TSU, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Note *In re Best*, 195 USPQ 433, footnote 4 (CCPA 1977) as to the providing of this rejection under 35 USC 103 in

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addition to the rejection made above under 35 USC 102. With regard to claims 10 and 11, it is reasonable to presume that the first layer has opacity of less than 70%, or preferably 50%. Support for said presumption is also based on the use of similar materials and similar processes used to create the laundry substrate. The burden is upon the Applicant to prove otherwise. Alternatively, it would have been obvious to a person having ordinary skill in the art to make the first layer less opaque, by adjusting the result effective variables of thickness and fiber density as discussed above, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claim 19, it is also reasonable to presume that the claimed permeability properties are also inherent to Cambre. In addition to the support for similar materials and similar production processes, Cambre teaches the article has permeability properties similar to those provided by various McQueary references (column 5, lines 38-46). Applicant teaches the present invention also has permeability properties similar to those found in the McQueary references (page 12, lines 5-15). The burden is upon the Applicant to prove otherwise. In the alternative, it would have been obvious to a person having ordinary skill in the art to make the water permeability greater than or equal to 0.06 ml/sec/cm<sup>2</sup>, because Cambre teaches that density and void volume are adjustable variables (column 5, lines 48-50), and it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

***Claim Rejections - 35 USC § 103***

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7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cambre.

Cambre do not disclose a specific two-layer embodiment where the second layer has a weight between 80 and 120 gsm. Cambre do disclose a two-layer embodiment where both layers weight 77.5 gsm. Cambre also disclose that the weight of the layers can be between 50 and 90 gsm (column 5, lines 25-28), and that fiber density and thickness (two factors that effect basis weight) can be adjusted so long as the substrate maintains structural integrity (column 4, lines 14-19). It would have been obvious to one having ordinary skill in the art to make the second layer have a basis weight between 80 and 120 gsm in order to increase the strength of the second layer to maintain structural integrity, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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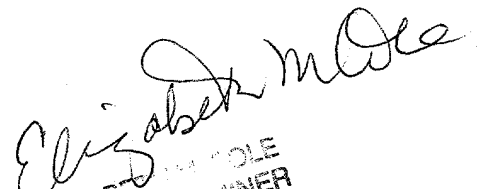
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce  
Examiner  
Art Unit 1771

August 4, 2003



ELIZABETH M. COLE  
PRIMARY EXAMINER